

# ***FACING THE CHALLENGES***


## **PAYING YOUR EMPLOYEES Common Mistakes to Avoid**


**Department of  
Labor and  
Industrial  
Relations**

**Wage Standards  
Division (WSD)**

**Pamela Martin,  
Administrator**

 **hawaii.gov**

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State of Hawaii

**Wage Standards Division**

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**MINIMUM WAGE AND OVERTIME**

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586-8777

### **NEWS AND EVENTS**

**Minimum Wage Increase Effective January 1, 2018**

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**Honolulu Liquor  
Commission  
2018 Symposium**

**April 13, 2018**

# The 6 Different Laws we enforce:



**Keep young workers safe in the workplace**  
([Child Labor Law, Chapter 390, HRS](#))



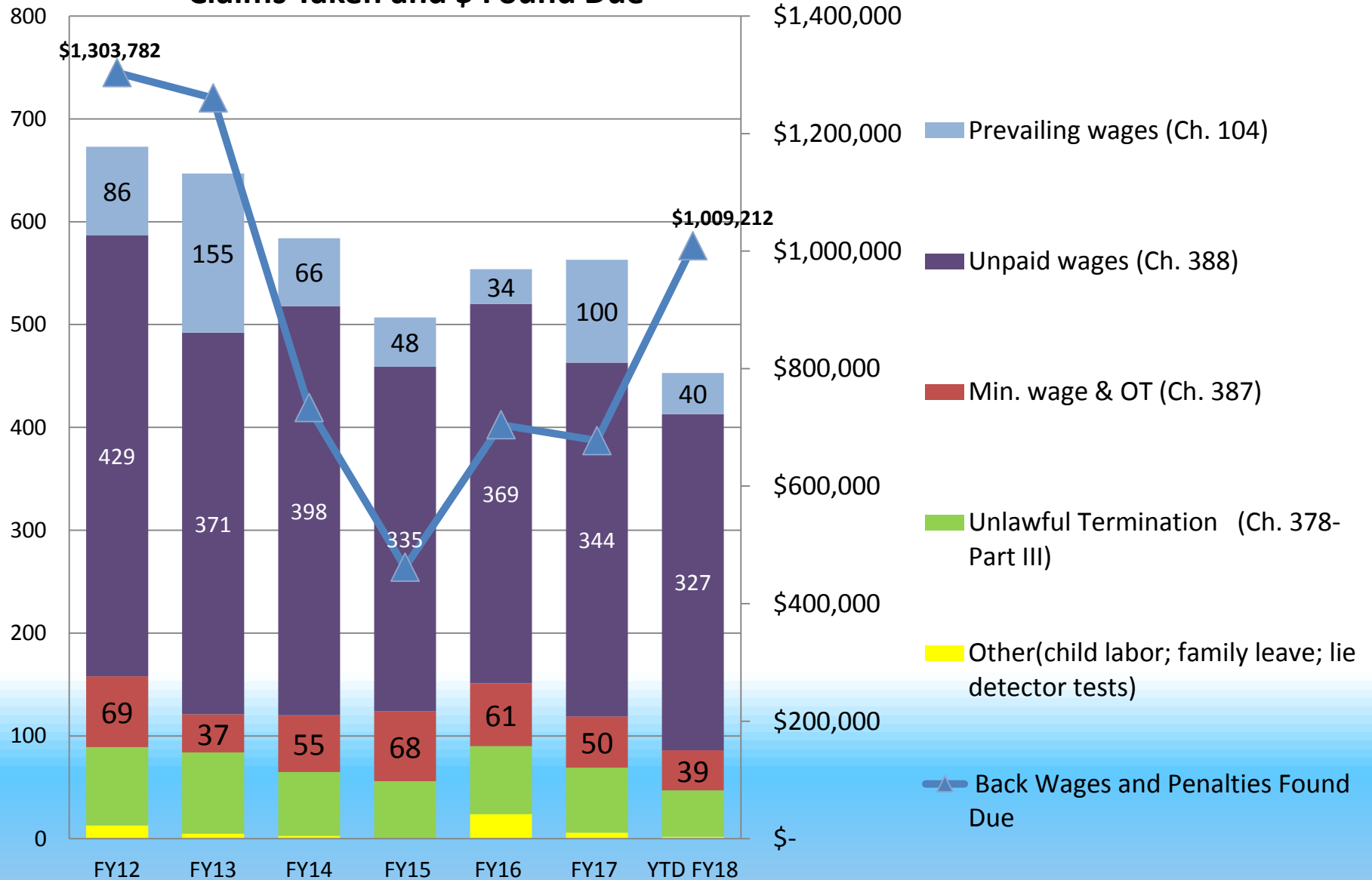
**Ensure employees are paid their wages due**  
([Wage and Hour Law, Chapter 387, HRS](#);  
[Payment of Wages and Other Compensation, Chapter 388, HRS](#);  
[Wages and Hours of Employees on Public Works, Chapter 104, HRS](#))



**Provide job protection**  
when family members need care [Hawaii Family Leave Law, Chapter 398, HRS](#), or an employee is fired or discriminated against because of a lie detector test, a workers compensation injury, taking an on-site drug test, Employment Practices Law Chapter 378, [Part II – Lie Detector Test](#) and [Part III – Unlawful Suspension or Discharge](#)

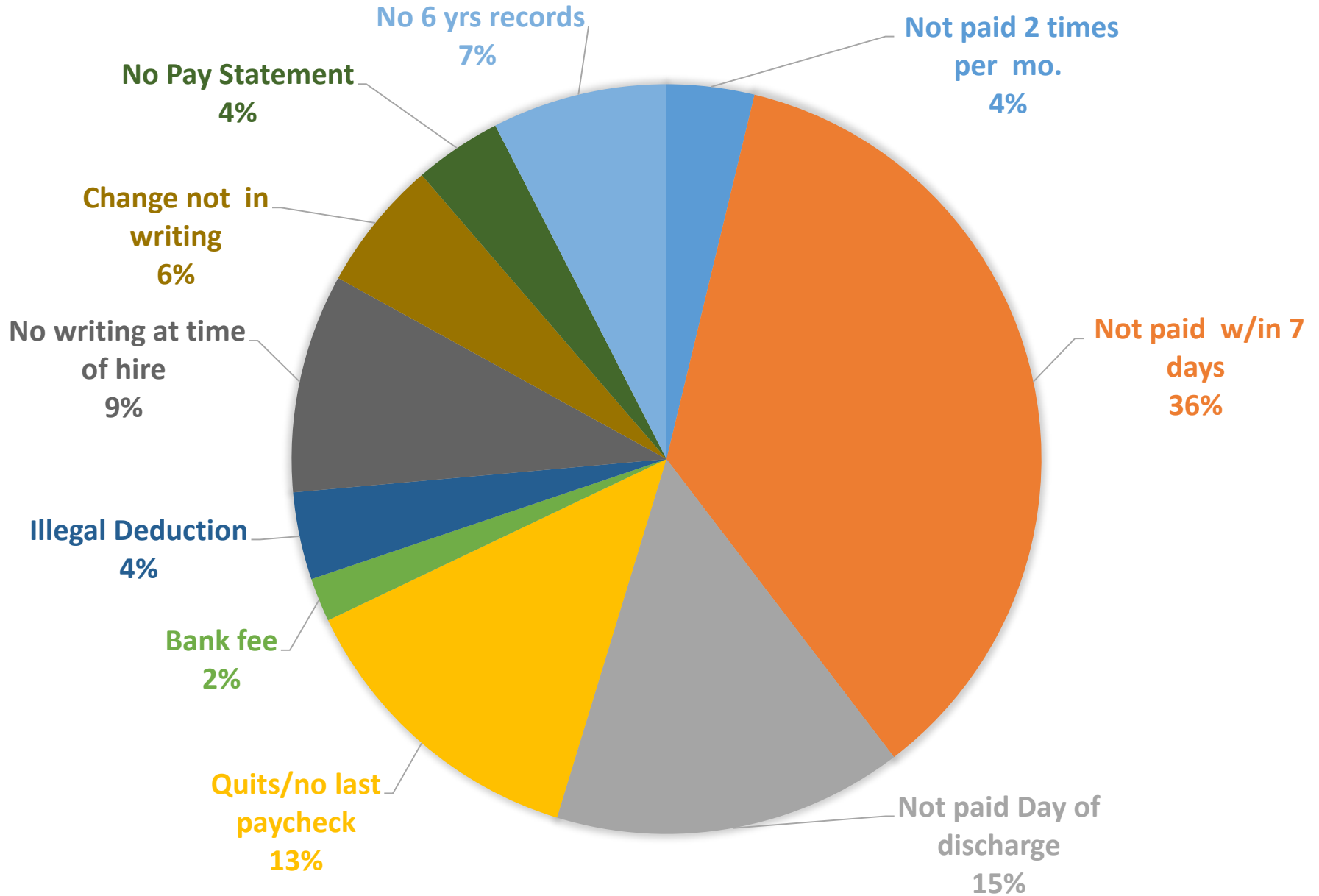


# Wage Standards Division, DLIR Claims Taken and \$ Found Due



# TYPE OF SECTION 388-10(B) PAYMENT OF WAGES PENALTIES

## \$500 MINIMUM PENALTY



Hawaii Minimum Wage Rate per hour

**\$10.10**

Applies to all businesses  
operating in Hawaii

(See definition of “employer” (12))

# Minimum Wage and Overtime

## Wage & Hour Law (Chapter 387, HRS)

- Minimum wage
  - \$10.10 per hour effective 1/1/2018
- Overtime after 40 hrs. in one week\*
  - 1-1/2 times hourly rate



**\*Exceptions for agriculture: 20 weeks after 48 hours; public works 8 hrs a day, Sat., Sun. and State holidays**



## TIP CREDIT = 75 cents

- ☐ Employee receives more than \$ 20 per month in tips (HAR 12-20-11)
- ☐ Receives more than \$7.00 above Min. Wage with cash wage and tips

\$9.35 cash wage paid by employer

\$7.75 tips paid by customers

\$17.10 per hour

# EXEMPTIONS FROM OT

## STATE EXEMPTIONS

Employers NOT subject to FLSA

- White collar – Exec; Admin, Prof. and Outside Sales Duties & 210 per week (HAR 12-20-3,4,5,6)
- Supervisor – supervises at least 5 people and is paid \$210 per week. (HAR 12-20-4)
- Outside collectors (HAR 12-20-7)
- \$2,000 salary a month. (387-1, HRS)

## FEDERAL EXEMPTIONS

- White collar – Exec; Admin, Prof. and Outside Sales Duties - \$455 per week
- Computer Employees - \$27.63 per hour
- Agriculture workers



## Review of common penalties

- ☐ **Timeliness of pay – twice a month, within 7 days of pay period ending**
- ☐ **Pay right away when fired or if quit next regular pay day.**
- ☐ **Pay statements – must have employer's and employee's name, detailed info of hours, rate, pay period and any deductions explained, and net pay**
- ☐ **Written notification of pay rates and times & any changes before the change starts; any vacation or sick leave policy**
- ☐ **No illegal deductions –ex. walk out on check; crash truck; break a glass or plate; short drawer that is shared; other fines or damages**
- ☐ **Record keeping – 6 years**

### WAGE AND PENALTY ASSESSMENT

I. WAGES, PENALTY, AND INTEREST TO EMPLOYEE		AMOUNT	
Unpaid Wages		\$230.18	
Penalty Equal to Unpaid Wages		\$230.18	
Interest (6% per year x unpaid wages x 151 days past due)		\$5.71	
TOTAL DUE TO EMPLOYEE		\$466.07	
II. CHAPTER 388, HRS, VIOLATIONS AND PENALTY		# VIOL	PENALTY
a. Pay all wages at least twice a month on regular paydays [§388-2(a)]	<input type="checkbox"/>		\$0.00
b. Pay earned wages within seven days after the end of the pay period [§388-2(b)]	<input checked="" type="checkbox"/>	1	\$100.00
c. Discharged employee: pay at time of discharge or no later than the next workday [§388-3(a)]	<input type="checkbox"/>		\$0.00
d. Employee quits or resigns:			
1. Pay no later than the next regular payday [§388-3(b)]	<input checked="" type="checkbox"/>	1	\$100.00
2. If one pay period notice given, then pay on last day [§388-3(b)]	<input type="checkbox"/>		\$0.00
e. Employer liable for any bank's special handling fee when insufficient amounts available in the employer's bank account [§388-5.5]	<input type="checkbox"/>		\$0.00
f. No deduction from wages except when required by law or court process or when authorized in writing by the employee. Prohibited deductions: fines, cash shortages, breakage, lost/stolen property, damage to property, default of customer credit, non-payment for goods or services [§388-6]	<input type="checkbox"/>		\$0.00
g. Chapter 388, HRS, Notice to Employees (poster) [§388-7(5)]	<input type="checkbox"/>		\$0.00
h. Notify employees:			
1. In writing, at time of hire, of rate of pay, and day, hour, and place of payment of wages [§388-7(1)]	<input checked="" type="checkbox"/>	1	\$100.00
2. In writing or by posted notice prior to any changes in above [§388-7(2)]	<input type="checkbox"/>		\$0.00
i. Policies on vacation and sick leave in writing or through a posted notice maintained in a place accessible to the employees [§388-7(3)]	<input type="checkbox"/>		\$0.00
j. Pay data showing name of employer, name of employee, gross earnings, amount and purpose of each deduction, net pay, payment date, pay period covered [§388-7(4), §12-21-5]	<input type="checkbox"/>		\$0.00
k. Records must be preserved for six years [§388-7(4), (6)]	<input checked="" type="checkbox"/>	1	\$100.00
l. No provision of this chapter may be contravened or set aside by private agreement [§388-8]	<input type="checkbox"/>		\$0.00
m. Other:	<input type="checkbox"/>		\$0.00
Total # violations @ \$100 for each violation		4	\$400.00
TOTAL CIVIL PENALTY TO GENERAL FUND (Not less than \$500 or \$100 for each violation, whichever is greater)			\$500.00

# NO State law requiring Meal/Rest Breaks

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except under the Child Labor  
Law for 14 and 15 year olds  
get 30 minutes after 5 hours



# Child Labor HAZARDOUS WORK



- HAWAII ADMINISTRATIVE RULES §12-25-48 Occupations involved in the operation of certain power-driven bakery machines. The following occupations are declared hazardous for minors under eighteen years of age: (1) Operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer, batter mixer, bread dividing, rounding, or molding machine, dough brake, dough sheeter, combination bread slicing and wrapping machine, or cake cutting-band saw; and (2) Setting up or adjusting a cookie or cracker machine.

# OTHER Labor Laws at DLIR

Worker's  
Compensation –  
808-586-9174

Temporary Disability  
Insurance –  
808-586-9188

Prepaid Health Care –  
808-586-9188

HIOSH – 808-586-9100  
(Consultation &  
Training)

Unemployment  
Insurance –  
808-586-8926  
(‘er info)

# Disability Compensation Division (DCD)

## Temporary Disability Insurance

- Non work related
- Wage loss benefits only
- 20 hours + per week
- 14 weeks of work in base period

## Prepaid Health Care

- Mandatory coverage
- 20 hours + per week
- 4 consecutive weeks eligibility
- Continuous weeks at 20 + hours

## Workers' Compensation

- Arise out of and in the course of employment
- Not due to intoxication or wilful intent to injure oneself
- Mental stress solely due to employer's disciplinary action not allowed

# RESOURCES

- Call WSD 808-586-8777
- EMAIL: [dlir.wages@Hawaii.gov](mailto:dlir.wages@Hawaii.gov)
- WEBSITE: [labor.hawaii.gov/wsd](http://labor.hawaii.gov/wsd)
- BLOG: Inside Hawaii Wage Standards and the DLIR  
<http://hawaiiwagestandards.blogspot.com/>
- Facebook: [Hawaii Teens at Work](https://www.facebook.com/HawaiiTeensatWork)

